

Appeal from decision of New Mexico State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer NM A 51319 TX.

Affirmed as modified.

1. Mineral Leasing Act for Acquired Lands: Lands Subject to--Oil and Gas Leases: Lands Subject to

Acquired lands situated within the boundaries of incorporated cities, towns, or villages are excluded from oil and gas leasing under the Mineral Leasing Act for Acquired Lands 30 U.S.C. § 352 (1976).

APPEARANCES: C. H. Nicholson, pro se; John H. Harrington, Esq., Office of the Solicitor, Southwest Region, for Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

C. H. Nicholson has appealed from a decision of the New Mexico State Office, Bureau of Land Management (BLM), dated December 23, 1982, rejecting his noncompetitive oil and gas lease offer for acquired lands NM A 51319 TX. The rejection was based on a title report from the Corps of Engineers in Fort Worth, Texas, revealing that the lands in the offer are owned by the City of Princeton, Texas, and, therefore, are not available for leasing through the United States.

In his statement of reasons, appellant notes that a quitclaim deed, dated September 28, 1948, conveying the subject land to the Housing Authority of the City of Princeton, Collin County, Texas, reserved mineral rights to the United States. Appellant is correct; however, there remains a statutory bar to the leasing of these lands by the United States.

[1] Land situated within the boundaries of incorporated cities, towns, or villages are excluded from oil and gas leasing under the Mineral Leasing Act for Acquired Lands, 30 U.S.C. § 352 (1976). The pertinent Departmental regulation, 43 CFR 3101.2-1(b)(4), states: "Acquired lands not subject to

leasing include lands * * * [i]n incorporated cities, towns and villages." ^{1/} See also, Nova L. Dodgen, 54 IBLA 340, 341 (1981). Thus, even though the United States may hold the mineral rights to a given tract of land, where the land falls within an incorporated city such as Princeton, Texas, oil and gas leasing is precluded. The record shows that in November 1969 the lands sought by appellant were annexed by the City of Princeton and the City's boundary limits were extended to include the subject lands within the city limits. As such, the lands fall within the exception provided by 43 CFR 3101.2-1(b)(4) and are not subject to leasing.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed as modified.

Anne Poindexter Lewis
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

Douglas E. Henriques
Administrative Judge

^{1/} New regulations effective Aug. 22, 1983, continue this same prohibition against oil and gas leasing in incorporated cities. See 43 CFR 3100.0-3(b)(2)(ii) at 48 FR 33663 (July 22, 1983).

